

KENTUCKY PERSONNEL BOARD
MINUTES OF JULY 12, 2013

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on July 12, 2013, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David F. Hutcheson, Jr., Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Ramona Herndon, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

Board Personnel Absent:

David B. Stevens, Member

2. **READING OF THE MINUTES OF REGULAR MEETING HELD JUNE 14, 2013**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Gillis moved to approve the minutes, as submitted. Mr. Hutcheson seconded, and the motion carried 5-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek advised that he, Mr. Crocker and some of the hearing officers attended the hearing officer training conducted by the Office of the Attorney General on June 21, 2013. Judge Chandler asked if there was any information that was provided at the training to benefit the Board members. Mr. Sipek responded that he will provide the members with a copy of the outline for their review and if they want anything copied to let him know.

Mr. Sipek stated that the Board made it through the 2012-2013 fiscal year without running out of funds. During the current fiscal year, 2013-2014, evidentiary hearings are being scheduled conservatively in order to keep hearing officers around to help staff as much as possible. This decision may cause a delay in some appeals. One concern is to have enough funds to run the employee Board election in 2014. Appeals are up slightly with about 240 active cases.

Further, during the last fiscal year some of the recording equipment failed and the Board room and one hearing room were down to one recording device each. However, new recording equipment has been installed in the Board room which now has two recording devices. The new equipment was installed rather economically and is under a service agreement.

[Board Member Mr. Blevins arrived during the Executive Director's Report.]

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. **PERSONNEL CABINET'S REPORT**

Commissioner Mary Elizabeth Harrod, Department of Human Resource Administration, came forward to present the Personnel Cabinet's report.

Ms. Harrod stated that the on-line employee evaluation training received good feedback and was very successful. An on-line manager refresher course has been sent out to all the agencies, which is not mandatory. The refresher course does not replace the one-day manager training, which is mandatory.

Ms. Harrod stated that in January 2013 the Personnel Cabinet sent out a letter to all state employees that direct deposit will be required for all new employees. Ms. Harrod stated that in response to recommendations made by the Smart Government Initiative, a letter is going out today (July 12), advising employees that after August 15, 2013, no check stubs will be printed in paper form. Employees can view or print their electronic salary statement which will be available on-line through the Kentucky Human Resources Information System (KHRIS) Employee Self Service (ESS). Chairman Sapp asked if all employees will have access to a computer or the internet. Ms. Harrod stated that if an employee does not have access to a computer to print off a copy of their electronic salary statement, one can be printed for them by their HR administrator. This will save the Commonwealth \$75,000 yearly. Also, open enrollment for health insurance will be on KHRIS ESS next fall.

At the conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for oral argument.

5. **ORAL ARGUMENTS**

A. Eric R. Goodin v. Tourism, Arts & Heritage Cabinet [Parks] (2012-136)

Present for oral argument were counsel for Appellant, the Hon. Elmer George; and counsel for Appellee, the Hon. Misty Judy. After presenting oral arguments, the parties answered questions from the Board.

6. INVESTIGATIONS

Update on Department of Agriculture Investigation

Mr. Sipek advised that because of other duties he has not had time to prepare a report. However, with the return of the hearing officers he will have more time to devote to the investigation. Chairman Sapp asked Mr. Sipek to have something for the Board to review by the September 2013 Board meeting.

7. CLOSED SESSION

Mr. Blevins moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Judge Chandler seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 6-0. (10:20 a.m.)

Mr. Hutcheson moved to return to open session. Mr. Blevins seconded and the motion carried 6-0. (11:10 a.m.)

8. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. Eric R. Goodin v. Tourism, Arts & Heritage Cabinet [Parks] (2012-139)

Mr. Hutcheson moved to note Appellant's exceptions, Appellee's response and oral arguments and to defer this matter to the next Board meeting. Ms. Herndon seconded and the motion carried 5-0, with Chairman Sapp recusing.

B. John Veitch v. Public Protection Cabinet [Kentucky Horse Racing Commission] (2011-263) **Deferred from June Meeting**

Judge Chandler moved to note Appellant's exceptions, Appellee's exceptions, Appellant's response, Appellee's response and oral arguments and to accept the Final Order Altering the recommended order and dismissing the appeal, as attached to the minutes. Mr. Gillis seconded and the motion carried 6-0.

C. Jacquelyn Cecil v. Justice and Public Safety Cabinet [Corrections] (2012-250)

Mr. Hutcheson moved to note Appellant's exceptions and Appellee's response and to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 6-0.

D. Harlan Tommy Barnett v. Education and Workforce Development Cabinet [Education] (2012-138)

Mr. Blevins moved to accept the recommended order (with clerical corrections) dismissing the appeal. Ms. Herndon seconded and the motion carried 6-0.

E. Emanuel Cravens and Michael Gibbs v. Transportation Cabinet (2012-248 & 2012-249)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 6-0.

F. Daymon Duvall v. Justice and Public Safety Cabinet [Dept. of Corrections] (2012-240)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Ms. Herndon seconded and the motion carried 6-0.

G. Katie McKone and Aric Payne v. Energy and Environment Cabinet (2013-034 and 2013-035)

Mr. Blevins moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 5-0. Mr. Gillis recused stating that his wife was a witness.

H. Jason Stimmel v. Tourism, Arts and Heritage Cabinet [Kentucky Horse Park] (2012-198)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 6-0.

9. **WITHDRAWALS**

Mr. Hutcheson moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Ms. Herndon seconded and the motion carried 6-0.

- A. Ryan Linton v. Personnel Cabinet
- B. Jason Mills v. Energy & Environment Cabinet
- C. Vanessa Smiley v. Personnel Cabinet
- D. Jerry Spears v. Transportation Cabinet
- E. John Hunt v. Personnel Cabinet

10. **SETTLEMENTS**

Mr. Gillis moved to accept the settlements *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Mr. Blevins seconded and the motion carried 6-0.

- A. John Bills v. Finance and Administration Cabinet
- B. Jewell T. Dickerson v. Department of Veterans Affairs

11. **OTHER**

Mr. Sipek advised that the next Board meeting is scheduled for August 9, 2013.

Chairman Sapp asked if there were any other matters to be discussed. There being no further business, Judge Chandler moved to adjourn. Ms. Herndon seconded and the motion carried 6-0. (11:15 a.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David F. Hutcheson, Jr., Member

Tommy W. Chandler, Member

Donald W. Blevins, Member

Ramona Herndon, Member